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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Siskiyou)

In re J.W., a Person Coming Under the Juvenile Court
Law.

C087017

SISKIYOU COUNTY HEALTH
AND HUMAN SERVICES AGENCY,

(Super. Ct. No.
SCSCJVSQ175183101)

Plaintiff and Respondent,

v.

S.M.,

Defendant and Appellant.

S.M., father of the minor, appeals from the judgment and orders entered at a jurisdictional and dispositional hearing, during which the juvenile court found the Indian Child Welfare Act (ICWA) (25 U.S.C. 1901 et seq.) does not apply to this case. (Welf. & Inst. Code, § 395.)¹ Father contends the Siskiyou County Health and Human Services Agency (Agency) failed to comply with ICWA's investigatory and notice requirements, and the Agency agrees. We will vacate the juvenile court's finding that ICWA does not apply and remand the matter for further ICWA compliance proceedings.

¹ Undesignated statutory references are to the Welfare and Institutions Code.

BACKGROUND

At a December 2017 detention hearing, the mother of the minor testified she may have Blackfoot or Cherokee heritage and her father in Oklahoma would likely have more information. Mother filed an ICWA-020 form with the juvenile court indicating she may have Blackfoot or Cherokee heritage. Father also informed the juvenile court that he believed he had Indian heritage but that he needed to speak with family members to obtain more information.

A March 2018 jurisdiction/disposition report indicated mother had reported that neither she, nor her relatives, were enrolled tribal members. Mother testified at the detention hearing, however, that she did not know if her family members were enrolled or if she was eligible for enrollment. The record does not indicate that anyone questioned mother again about her Blackfoot or Cherokee heritage, and it does not appear that the Agency attempted to contact mother's family members in Oklahoma to question them about their potential Indian heritage.

The jurisdiction/disposition report indicated father said he did not have Indian heritage, but father testified at the April 2018 combined jurisdiction/disposition hearing that he did have Indian heritage. He said it was not documented and he did not know the name of the tribe, but he thought it may be Cherokee. He said his family members in the courthouse hallway would have additional information about his Indian heritage. The record does not show that the Agency attempted to contact father's relatives to question them about their potential Indian heritage. Moreover, the Agency did not send ICWA notice to any Blackfoot or Cherokee tribe, or to the Bureau of Indian Affairs.

In its report, the Agency asked the juvenile court to find that ICWA did not apply, and the juvenile court made that finding.

DISCUSSION

Even when there is slight or contradictory evidence of Native American or Indian heritage, ICWA investigatory and notice requirements are triggered. (*In re K.R.* (2018))

Mother claimed Indian ancestry through the Blackfoot and/or Cherokee tribes and father also claimed Indian ancestry, possibly through the Cherokee tribes. That information was sufficient to trigger the ICWA noticing requirements (*In re Gabriel G.*, *supra*, 206 Cal.App.4th at p. 1165), but it appears that notice of the proceedings was not sent to any tribe. In addition, efforts to locate and interview family members who may have pertinent information about the minor's Indian heritage should be included in the social worker's report. (*In re K.R.*, *supra*, 20 Cal.App.5th at p. 709.) Here, no such documentation was provided to the juvenile court.

The juvenile court's finding that ICWA does not apply is vacated and the matter is remanded for further ICWA compliance proceedings, after which the juvenile court shall enter new ICWA findings. If the minor is found to be an Indian child, the juvenile court shall proceed in compliance with ICWA, including consideration of any petition filed to invalidate prior orders. (25 U.S.C. § 1914; § 224, subd. (e).)

We concur:

/S/
MURRAY, J.